

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**ELIZABETH A. STANTON,
Personal Representative of
JOSEPH H. SANTARLASCI, III,
Deceased, and Administrator of the
Estate of JOSEPH H. SANTARLASCI, III,**

Plaintiff,

V.

LAFAYETTE COLLEGE, *et al.*,

Defendants.

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Civil Action No. 02 CV 4779
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ORDER

AND NOW this _____ day of _____, 2003,
upon consideration of Plaintiff's Emergency Motion to Quash Subpoena, and any
opposition thereto, it is hereby **ORDERED** and **DECREED** that the Motion is
GRANTED and the Subpoena served on "Jeffrey Kip - Ubs Ag" is hereby
QUASHED.

BY THE COURT:

J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ELIZABETH A. STANTON,
Personal Representative of
JOSEPH H. SANTARLASCI, III,
Deceased, and Administrator of the
Estate of JOSEPH H. SANTARLASCI, III,

Plaintiff,

v.

LAFAYETTE COLLEGE, *et al.*,

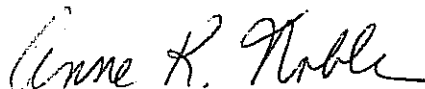
Defendants.

Civil Action No. 02 CV 4779

PLAINTIFF'S EMERGENCY MOTION TO QUASH SUBPOENA

COMES NOW PLAINTIFF, Elizabeth A. Stanton, by and through her undersigned counsel, and respectfully moves this Court for an Order quashing the improper subpoena served upon non-party Jeffrey Kip by the Defendants in this matter, and as grounds therefor, refers to the Memorandum of Points and Authorities attached hereto and made a part hereof.

Respectfully submitted,



Peter C. Grenier (admitted *pro hac vice*)

Anne R. Noble (admitted *pro hac vice*)

BODE & GRENIER, LLP

1150 Connecticut Avenue NW

9th Floor

Washington, DC 20036

Telephone: (202) 828-4100

Fax: (202) 828-4130

-and-

Jonathan S. Ziss, Esquire
Jonathan A. Cass, Esquire
SILVERMAN BERNHEIM & VOGEL, P.C.
Two Penn Center Plaza
Philadelphia PA 19102
Telephone: (215) 636-3962
Fax: (215) 636-3999

Counsel for Plaintiff

March 20, 2003

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ELIZABETH A. STANTON,
Personal Representative of
JOSEPH H. SANTARLASCI, III,
Deceased, and Administrator of the
Estate of JOSEPH H. SANTARLASCI, III,

Plaintiff,

V.

LAFAYETTE COLLEGE, *et al.*,

Defendants.

Civil Action No. 02 CV 4779

**MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF
PLAINTIFF'S EMERGENCY MOTION TO QUASH SUBPOENA**

1. On or about March 14, 2003, Defendants Lafayette College and Erin Malone ("Ms. Malone") (collectively, "Defendants") caused to be issued a subpoena *duces tecum* in a civil case, pursuant to which Jeffrey Kip was commanded to appear at the offices of Defendants' counsel in King of Prussia, Pennsylvania for a deposition on **March 21, 2003 at 1 p.m.** (that is, tomorrow). Exhibit 1. Notice of this deposition was sent to counsel for Plaintiffs **yesterday**. The "Notice of Deposition" states that Mr. Kip's deposition is scheduled to take place beginning at 9 a.m. on Friday, March 28, 2003. Nevertheless, the defective subpoena on which this Notice purports to rely states that the date and time of the referenced deposition are March 21, 2003 at 1:00 p.m. Exhibit 1.

2. The subpoena was served under the auspices of Fed. R. Civ. P. 45, which states, *inter alia*, that "a subpoena may be served at any place within the district of the

court by which it is issued, or at any place without the district that is within 100 miles of the place of the deposition “ Fed. R. Civ. P. 45(b)(2) (emphasis added). See *Merchant Bank of New York v. Grove Silk Co.*, 11 F.R.D. 439, 440 (M.D. Pa. 1951).

3. The subpoena *duces tecum* was issued by defense counsel, acting as officers of this Court, and is captioned as originating from this Court. Exhibit 1.

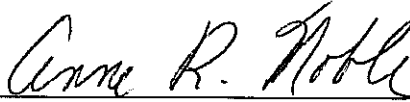
4. Mr. Kip was served with the subpoena at his business office, which is located at 299 Park Avenue, New York, New York.

5. The Court may take judicial notice of the fact that 299 Park Avenue, New York, New York is neither “within the district” of the United States District Court for the Eastern District of Pennsylvania nor “within 100 miles” of the site of the deposition recorded on the subpoena, namely: Powell, Trachtman, Logan, Carrle, Bowman & Lombardo, P.C., 475 Allendale Road, King of Prussia, PA 19406. Exhibit 1. *Merchant Bank of New York*, 11 F.R.D. at 440. Specifically, 299 Park Avenue, New York, New York is more than 108 miles from defendants’ counsel’s law offices in King of Prussia, Pennsylvania. Exhibit 2. See *Merchant Bank of New York*, 11 F.R.D. at 440 (“The distance is to be determined by the ordinary, usual and shortest route of public travel and not by a mathematically straight line between the place of service and the place of trial.”)

5. Because the subpoena was served more than 100 miles from the site of the deposition stated on its face, it is defective as a matter of law and must be quashed. Fed. R. Civ. P. 45(b)(2); *Merchant Bank of New York*, 11 F.R.D. at 440 (quashing subpoena *duces tecum* served on vice president of New York Bank, where place of service was more than 100 miles from site of return).

WHEREFORE, for good cause shown Plaintiff respectfully requests that this Court enter an Order quashing the subpoena *duces tecum* served on Mr. Kip.

Respectfully submitted,



Peter C. Grenier (admitted *pro hac vice*)

Anne R. Noble (admitted *pro hac vice*)

BODE & GRENIER, LLP

1150 Connecticut Avenue NW

9th Floor

Washington, DC 20036

Telephone: (202) 828-4100

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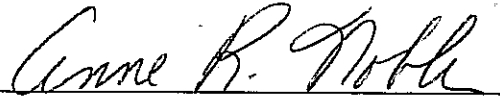
Fax: (215) 636-3999

Counsel for Plaintiff

March 20, 2003

CERTIFICATION PURSUANT TO LOCAL RULE 26.1(f)

I, Anne R. Noble, hereby certify that I and Peter C. Grenier, Esquire, counsel for Plaintiff in this matter, made reasonable efforts to resolve the discovery dispute which is the subject of the within discovery motion with counsel for Defendant Lafayette College without success.


Anne R. Noble

Dated: March 20, 2002

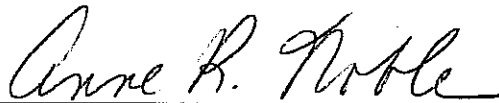
CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of March, 2003, I served, via first-class mail and facsimile, the foregoing **Plaintiff's Emergency Motion to Quash** on:

Jonathan K. Hollin, Esquire
Powell, Trachtman, Logan, Carrle,
Bowman & Lombardo
475 Allendale Road
Suite 200
King of Prussia, Pennsylvania 19406

A courtesy copy was served via hand delivery was served on:

Honorable Thomas N. O'Neill, Jr.
United States District Court
East. District of Pennsylvania
U.S. Courthouse
601 Market Street, Room 4007
Philadelphia, PA 19106



Anne R. Noble

Exhibit "1"

28 (Rev. 11/91) Subpoena in a Civil Case

United States District Court

EASTERN

DISTRICT OF PENNSYLVANIA

ELIZABETH A. STANTON, PERSONAL REPRESENTATIVE
OF THE ESTATE OF JOSEPH H. SANTARLASCI, III

V.

SUBPOENA IN A CIVIL CASE

APAYETTE COLLEGE, ET AL.

CASE NUMBER: 02-4779

D: Jeffrey Kip
Ubs Ag
299 Park Avenue
Manhattan, NY 10171YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to
testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition
in the above case.

PLACE OF DEPOSITION

Powell, Trachtman, Logan, Carrle, Bowman & Lombardo, P.C.
475 Allendale Road, King of Prussia, PA 19406

DATE AND TIME

3/21/03 @ 1:00 p.m.

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the
place, date, and time specified below (list documents or objects):

See Attached.

PLACE

DATE AND TIME

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PLACES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more
officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each
person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(5).

SIGNING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

Jonathan K. Hollin

Attorney for Defendants

3/14/03

SIGNING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Jonathan K. Hollin, Esquire, Powell, Trachtman, Logan, Carrle, Bowman & Lombardo, P.C.
475 Allendale Rd., Ste. 200, King of Prussia, PA - 610-354-9700

Any and all documents evidencing, memorializing, relating or referring to communications between you and Joseph Santarlasci, III from January 1999 to December 2, 2001, as well as any and all documents, if any, which evidence or relate to any efforts made by you to secure employment for Joseph Santarlasci, III in the investment banking field, or otherwise including, without limitation any documents related to any interviews or requests for employment by Joseph Santarlasci, III at Goldman Sachs, and any documents evidencing, memorializing or pertaining to communications between you and Joseph Santarlasci, Jr. and Elizabeth Stanton, or anyone acting on their behalf, from January 2002 to present.

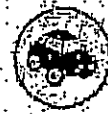
Exhibit "2"

MAPQUEST

Home Help



MAPS

DRIVING
DIRECTIONSROAD/TRIP
PLANNER

driving directions

- North America
- Europe
- Saved Routes

What's Nearby

Search miles for:

BORDERS



Orbitz Travel Deals

Flights:

Find low fares to the Philadelphia area!

Rental Cars:

Find special offers on rental prices in the New York area!

Lodging:

Save up to 75% on Orbitz Savers nationwide. Search King Of Prussia, PA!

ORBITZ

City Guide

- Philadelphia Dining
- Philadelphia News
- Philadelphia Movies
- Philadelphia Entertainment

Yellow Pages

Search King Of Prussia for:

Auto repair



FROM:

299 Park Ave
New York, NY
10171-0001 US

TO:

475 Allendale Rd
King Of Prussia, PA
19406-1431 US

Total Distance: 108.14 miles

Total Estimated Time:
1 hour, 51 minutes
[PRINT ROUTE MAP](#) [SAVE ROUTE MAP](#) [MAIL ROUTE MAP](#)
[REVERSE DIRECTION SEARCH](#) [DOWNLOAD ROUTE TO GADGET](#)

DIRECTIONS

DISTANCE

- | | |
|--|-------------|
| 1: Start out going Northwest on E 49TH ST toward PARK AVE. | 0.01 miles |
| 2: Turn LEFT onto PARK AVE. | 0.10 miles |
| 3: Turn RIGHT onto E 47TH ST. | 0.55 miles |
| 4: Turn LEFT onto BROADWAY. | 0.25 miles |
| 5: Turn RIGHT onto W 42ND ST. | 0.37 miles |
| 6: Turn LEFT onto 9TH AVE. | 0.15 miles |
| 7: Turn RIGHT onto W 39TH ST. | 0.24 miles |
| 8: Merge onto I-495 W toward NEW JERSEY/NEWARK INTERNATIONAL AIRPORT. | 3.95 miles |
| 9: Take the N.J. TURNPIKE SOUTH exit on the left toward TRENTON/NEWARK AIRPORT. | 0.19 miles |
| 10: Stay straight to go onto ramp. | 0.32 miles |
| 11: Merge onto I-95 S (Portions toll). | 43.65 miles |
| 12: I-95 S becomes NEW JERSEY TURNPIKE S (Portions toll). | 17.13 miles |
| 13: Take the exit- exit number 6- toward PENNSYLVANIA TURNPIKE. | 1.06 miles |
| 14: Merge onto NEW JERSEY TURNPIKE EXT (Portions toll). | 5.19 miles |
| 15: NEW JERSEY TURNPIKE EXT becomes PENNSYLVANIA TURNPIKE W/I-276 W (Portions toll). | 24.75 miles |
| 16: Merge onto I-476 S via exit number 333 toward MID-COUNTY/PHILADELPHIA/CHESTER (Portions toll). | 4.56 miles |
| 17: Merge onto I-76 W via exit number 16 toward VALLEY FORGE. | 4.10 miles |

BACK
OUR
PRICE
GUAR

2003 Volk



2003 To



2003 F



See

- 18: Merge onto W DEKALB PIKE/US-202 N via exit number 328 toward KING OF PRUSSIA. 0.74 miles
- 19: Turn LEFT onto ALLENDALE RD. 0.22 miles
- 20: Turn RIGHT onto ALLENDALE RD. 0.61 miles

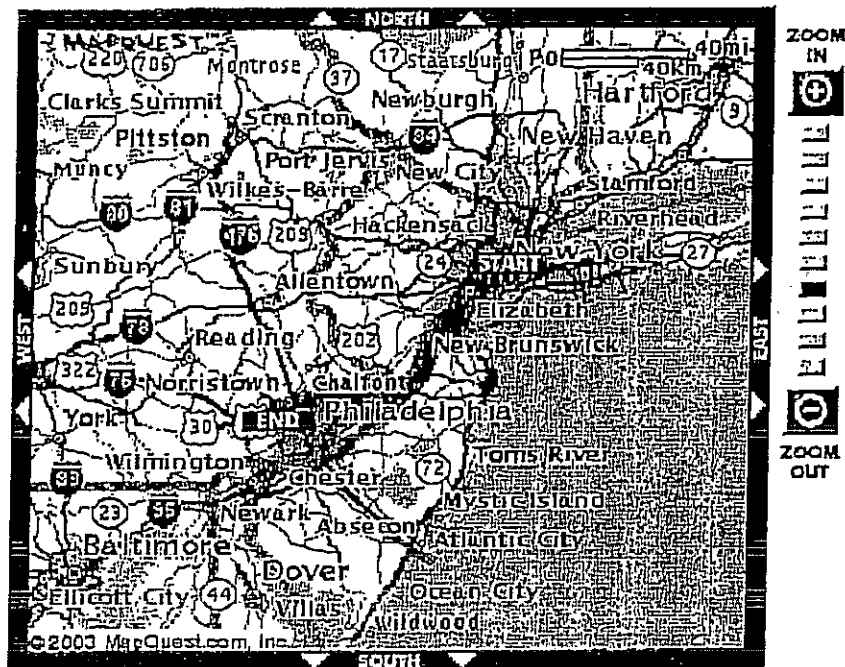
Total Estimated Time: 1 hour, 51 minutes
Total Distance: 108.14 miles

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Find an Apartment
Search over 6.5 Million Apartments
powered by @homestore

ROUTE OVERVIEW:



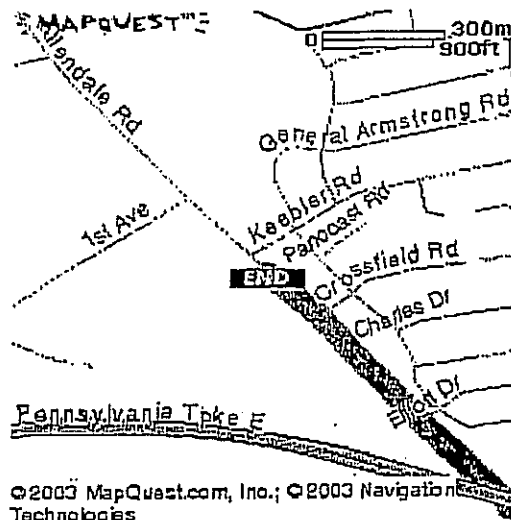
CLICKING ON MAP WILL: ☐ Zoom In ☒ Re-center

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Map Legend

DESTINATION:

475 Allendale Rd
King Of Prussia, PA
19406-1431 US



Re-display Directions with:

- ☒ Overview Map with Text ☐ Text Only ☐ Turn-by-Turn Maps with Text

RE-DISPLAY ROUTE

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